

**REMARKS**

Claims 9-13 are pending. Claim 9 has been amended.

Claims 9-13 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Admitted Prior Art (APA) contained in applicant's specification. Reconsideration of this rejection is respectfully requested.

Claim 9 recites memory device comprising "a gate stack pair with a space between them defining a contact opening," "a vertical oxide spacer adjacent to each gate stack of said gate stack pair," and "a respective continuous nitride layer overlaying each said vertical oxide spacer and each said gate stack." Neither continuous nitride layer extends "to cover said contact opening between said gate stack pair."

APA discloses a memory device having a gate stack pair separated by a contact area. Referring as does the Office Action to FIG. 2C, the contact area is covered with nitride layer 12. In a subsequent step, shown in FIG. 2D, the nitride layer is removed from both the top of the gate stacks and the contact area. APA does not teach the invention recited in claim 9, which requires "a gate stack pair with a space between them defining a contact opening," and "a respective continuous nitride layer overlaying each said vertical oxide spacer and each said gate stack, neither of said continuous nitride layers extending to cover said contact opening between said gate stack pair." Claims 10-13 depend from claim 9, and so are patentable over APA for at least the same reasons.

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In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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